GOVERNMENT OF INDIA
COMMUNICATIONS
LOK SABHA

UNSTARRED QUESTION NO:5083
ANSWERED ON:05.04.2017
Imposition of Penalty
Maragatham Smt. K.

Will the Minister of COMMUNICATIONS be pleased to state:

(a) whether the Department of Telecom (DoT) has sought Attorney General's (AG) views on its authority to impose penalty for breach of license conditions and if so, the details thereof and the views tendered, if any, by the AG in this regard; and

(b) whether the DoT proposes to set up any internal committee to examine the commercial and technical aspect of the imposition of such penalty and if so, the details thereof and if not, the reasons therefor?

Answer

THE MINISTER OF STATE (IC) OF THE MINISTRY OF COMMUNICATIONS &
MINISTER OF STATE IN THE MINISTRY OF RAILWAYS
(SHRI MANOJ SINHA)

(a) & (b) In view of the judgement & order dated 08.01.2016 of Hon'ble High Court of Tripura in the matter of M/s Dishnet Wireless Ltd. Vs Union of India Writ Petition No. 422 of 2012, wherein the financial penalty clause of the License Agreement was held to be opposed to the public policy, ultra vires and against statutory provisions, the Department of Telecommunications (DoT) sought opinion of Learned Attorney General on the issue of powers to impose financial penalty on various Telecom Service Providers for violation of terms and conditions of license agreement pending the review petition dated 16.03.2016 before the High Court Division Bench.

The Learned Attorney General vide his opinion dated 23.12.2016 has answered the queries of department as below:

Query (i): Whether the said order of Hon'ble High Court of Tripura in WP(C) No. 422 of 2012 in the matter of M/s Dishnet Wireless Ltd. Vs Union of India is applicable only for the particular case and not to other cases in general, more so when the issue of fair competition is involved?

Answer: The order of High Court is confined to the specific case and facts of M/s Dishnet Wireless Ltd. It does not have any application to all cases which may arise in future. Further, it has no application to the case in hand.

Query (ii): Whether Department can issue a show cause notice for imposing a financial penalty & impose financial penalty on the service providers as recommended by TRAI in the circumstances stated above and more so pending adjudication of appeal filed by the Union of India before the division bench of High Court of Tripura?

Answer: Yes.

Query (iii): Whether an appeal could be filed before Hon'ble Supreme Court against the said order while the appeal is pending before Hon'ble High Court of Tripura and appellant arguments are over?

Answer: No appeal can be filed in the Supreme Court of India since an appeal is already pending before the Division Bench of the High Court.

Subsequently, Division Bench of Hon'ble High Court of Tripura has pronounced its judgement and order dated 15.03.2017 in favour of Union of India. With the pronouncement of the said judgement, the powers of DoT to impose financial penalty on various Telecom Service Providers for violation of terms and conditions of license agreement stands reinstated.

At present, there is no proposal to set up any internal committee to examine the commercial and technical aspect of the imposition of penalty.

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